

1 BILL NO. G-83-09-47 (AS AMENDED) (AS AMENDED)

2 GENERAL ORDINANCE NO. G-

28-83

3 AN ORDINANCE amending Chapter 33 of the
4 Municipal Code of the City of Fort Wayne,
5 Indiana.

6 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
7 INDIANA:

8 SECTION 1. Delete Section 33-53 and Section 33-54 in their
9 entirety.

10 SECTION 2. Article XI River Greenway Overlay District (RGO) be
11 added as follows:

12 Article XI - River Greenway Overlay District (RGO)

13 Section 33-53. Creation of District

14 The River Greenway District, which from here on is referred
15 to as the RGO, is hereby created as an overlay district to be
16 applied to such lands related to and adjacent to the Maumee,
17 St. Joseph, St. Mary's River or Spy Run Creek, as the City Council
18 of the City of Fort Wayne may designate by ordinance. The RGO District
19 boundaries, after enactment by Council, shall be shown on the
20 zoning map as an overlay so that the underlying zoning district
21 will remain legible.

22 Section 33-54. Effect of District

23 The RGO District may have the effect of modifying the requirements,
24 regulations and procedures applying in the RGO District providing
25 there is no conflict of this ordinance and other ordinances. If
26 there is such a conflict whichever ordinance is the most restrictive
27 shall take precedence.

28 Section 33-55. Purpose and Intent

29 The River Greenway Overlay District is of special and substantial
30 public interest because it is a visual and environmental resource
31 affecting substantial portions of the City of Fort Wayne including
32 many neighborhoods, the Central Business District, numerous parks,
and several areas designated through the Park Master Plan for
redevelopment. It is the general purpose and intent of these
regulations to provide for maximum public benefit from any
future development of the River Greenway Districts through a
sharing of the district land by different types of uses which
are developed with a river orientation and with emphasis on
the opportunity for enjoyment of river vistas and access by
the maximum number of citizens. It is further the intent of
this ordinance to provide for public access to the waterfront,
to eliminate or minimize adverse environmental impact, to improve
scenic and aesthetic controls, to improve transportation
coordination and capability, and better coordinate residential,
recreation, commercial, and industrial land uses.

Page two

Section 33-56. Land Use Review

- (a) Prior to instituting any change in the RGO District, a person shall submit a request for approval of a change along with a development plan and filing fee to the Plan Commission. The development plan shall contain:
- (1) Number, type, and location of existing structures, parcel size, lot coverage of existing buildings including number, type and location of proposed structures;
 - (2) The location, minimum size and configuration of areas to be conveyed, dedicated, or otherwise reserved as common open space;
 - (3) The existing and proposed pedestrian circulation system, including links to public transportation systems;
 - (4) The proposed treatment of the perimeter of the site; including materials and techniques to be used such as screens, fences, walls, and landscaping;
 - (5) The relationship between this parcel and other developed parcels within the RGO District, including building orientation and facade design;
 - (6) The height of the plat above sea level;
 - (7) Any data and information bearing on the flooding;
 - (8) Other technical or statistical data which may be reasonably required by the Plan Commission.
- (b) The City Plan Commission shall review the land use of each development plan submitted within the RGO in relationship to any and all plans having a bearing on the River Greenway District including but not limited to the Comprehensive Plan. If the Plan Commission determines that the proposed plan or use is not compatible with this ordinance or other ordinances of the City, is not compatible with the Comprehensive Plan, or creates unreasonable hazard of flooding or is not compatible with the aesthetic design of the RGO District it shall deny the application. If the Plan Commission denies the application it shall notify the petitioner stating the reasons for the denial.
- (c) Prohibition of Change: No person shall make a change as defined below before such change is approved by the Plan Commission, unless it has been exempted under the terms of this ordinance for emergency work. Emergency work may be commenced concurrent with an application for review when, without emergency work, there is imminent danger of personal injury or substantial damage to property, any such emergency work is done solely at the risk of the person performing the work. An application for development plan shall be filed for review as soon as possible and not later than the first working day after repairs have commenced. No building, occupancy, health department or other permit shall be issued for a change required to be reviewed under this

ordinance unless the change has been approved by the City Plan Commission or is proceeding as emergency work under concurrent review. If the Plan Commission subsequently denies the development plan for any change made pursuant to the "emergency work" provisions of this subsection, the person shall, upon notification of such denial, immediately quit any such occupancy and use and shall restore the premises to its condition prior to commencement of the emergency work.

For the purpose of the RGO District, change shall mean:

1. Construction or alteration of a structure; but not replacement of industrial machinery or fixtures which do not involve a structural alteration as defined in Section 33-34.
2. Commencement of a different land use.
3. Filling, grading, clearing or excavating of land.

Section 33-57. Issuance of Permits.

- a. The Zoning Enforcement Officer shall issue an Improvement Location Permit within the RGO District only following receipt of notice from the Plan Commission that the development plan has been approved by the Plan Commission.

- b. Construction of Improvement under permit:

Revocation of Permit: Any person to whom is issued an Improvement Location Permit who fails to commence construction in accordance with the approved development plan within thirty-six (36) months after such permit is issued or who fails to carry to completion thirty (30%) percent of the total buildings as authorized by said permit within four (4) years after said permit is issued, or within two (2) years after such construction is begun, whichever is later, or has not completed at least sixty (60%) percent of the total buildings within six (6) years, shall be subject to the following:

- (1) If after public hearing the Commission finds that work has not been commenced or completed within the RGO the Improvement Location Permit shall be revoked by the Commission; provided however, if at this public hearing or at subsequent public hearings, the Commission finds that there is sufficient justification for the failure to commence or complete this work, the Commission at each such hearing may extend the time allowed for such commencement or completion for periods not to exceed six (6) months.
- (2) If the work has commenced and the plan is not completed as required by this Sub-Section, failure to complete said plan shall be considered a breach of the zoning laws and subject to the penalty called for in Section 33-25 (a), (b), (c).

Page four

- (3) The Commission may, after investigation, apply to a court of law for an injunction to stop the commencement, continuation or operation of said project if a substantial compliance with said plan has not been achieved in the time limit as herein set forth.

c. Amendments to Development Plan:

- (1) The holder of an RGO Improvement Location Permit may apply to the Commission at any time for an alteration, change, amendment, or extension of the development plan upon which such permit is based. In any such case the holder shall submit to the Plan Commission all information required for a development plan.
- (2) If an application shows that additional land is to be improved or used in connection with such RGO permit, then the Commission shall proceed as in the case of original application for an RGO Improvement Location Permit.
- (3) If no additional land is embraced in the application for alteration, change, amendment or extension, then the Commission shall be empowered to pass on such matters without requiring a public hearing thereon. The Commission shall be entitled to request any additional information.
- (4) In the event the Commission shall approve and order such development plan changed, altered, amended or extended, it shall so notify the Zoning Enforcement Officer, and he/she shall issue an amended Improvement Location Permit accordingly.

Section 33-58. Severability

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3. That this Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and due legal publication thereof.

COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY

BRUCE O. BOXBERGER, CITY ATTORNEY

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15 to as the RGO, is hereby created as an overlay district to be
16 applied to such lands related to and adjacent to the Maumee,
17 St. Joseph, or St. Mary's River as the City Council of the
18 City of Fort Wayne may designate by ordinance. The RGO District
19 boundaries, after enactment by Council, shall be shown on the
20 zoning map as an overlay so that the underlying zoning district
21 will remain legible.

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23 The RGO District may have the effect of modifying the requirements,
24 regulations, and procedures applying in the RGO District providing
25 there is no conflict of this ordinance and other ordinances,
26 whichever ordinance is the most restrictive shall take precedence.

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28 The River Greenway Overlay District is of special and substantial
29 public interest because it is a visual and environmental resource
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31 many neighborhoods, the Central Business District, numerous parks,
32 and several areas designated through the Park Master Plan for
redevelopment. It is the general purpose and intent of these
regulations to provide for maximum public benefit from any
future development of the River Greenway Districts through a
sharing of the district land by different types of uses which
are developed with a river orientation and with emphasis on
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this ordinance to provide for public access to the waterfront,
to eliminate or minimize adverse environmental impact, to improve
scenic and aesthetic controls, to improve transportation
coordination and capability, and better coordinate residential,
recreation, commercial, and industrial land uses.

Section 33-56. Land Use Review

(a) Prior to instituting any change in the RGO District, a person shall submit a request for approval of a change along with a development plan and filing fee to the Plan Commission. The development plan shall contain:

- (1) Number, type, and location of existing structures, parcel size, lot coverage of existing buildings including number, type and location of proposed structures;
- (2) The location, minimum size and configuration of areas to be conveyed, dedicated, or otherwise reserved as common open space;
- (3) The existing and proposed pedestrian circulation system, including links to public transportation systems;
- (4) The proposed treatment of the perimeter of the site; including materials and techniques to be used such as screens, fences, walls, and landscaping;
- (5) The relationship between this parcel and other developed parcels within the RGO District, including building orientation and facade design;
- (6) The height of the plat above sea level;
- (7) Any data and information bearing on the flooding;
- (8) Other technical or statistical data which may be reasonably required by the Plan Commission.

(b) The City Plan Commission shall review the land use of each development plan submitted within the RGO in relationship to any and all plans having a bearing on the River Greenway District including but not limited to the Comprehensive Plan. If the Plan Commission determines that the proposed use is not compatible with this ordinance or other ordinances of the city, is not compatible with the Comprehensive Plan, or creates unreasonable hazard of flooding or not compatible with the aesthetic design of RGO District. If the Plan Commission denies the application it shall notify the petitioner stating the reasons for that denial.

(c) Prohibition of Change: No person shall make a change as defined below before such change is approved by the Plan Commission, unless it has been exempted under the terms of this ordinance for emergency work. Emergency work may be commenced concurrent with an application for review when, without emergency work, there is imminent danger of personal injury or substantial damage to property. An application for development plan shall be filed for review as soon as possible and not later than the first working day after repairs have commenced. No building, occupancy, health department or other permit shall be issued for a change required to be reviewed under this ordinance unless the change has been approved by the City Plan Commission or is proceeding as emergency work under concurrent review.

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5 Section 33-34.
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7 3. Filling, grading, clearing or excavating of land.

8 Section 33-57. Issuance of Permits

9 a. The Zoning Enforcement Officer shall issue an Improvement
10 Location Permit within the RGO District only following
11 receipt of notice from the Plan Commission that the final
12 development plan has been approved by the Plan Commission.

13 b. Construction of Improvement under permit:

14 Revocation of Permit: Any person to whom is issued an
15 Improvement Location Permit who fails to commence construction
16 in accordance with the approved development plan within
17 thirty-six (36) months after such permit is issued or who
18 fails to carry to completion thirty (30%) percent of the
19 total buildings as authorized by said permit within four
20 (4) years after said permit is issued, or within two (2)
21 years after such construction is begun, whichever is later,
22 or has not completed at least sixty (60%) percent of the
23 total buildings within six (6) years, shall be subject to
24 the following:

25 (1) If after public hearing the Commission finds that
26 work has not been commenced or completed within the
27 RGO the Improvement Location Permit shall be revoked
28 by the Commission; provided however, if at this public
29 hearing or at subsequent public hearings, the Commission
30 finds that there is sufficient justification for the
31 failure to commence or complete this work, the Commission
32 at each such hearing may extend the time allowed for
such commencement or completion for periods not to
exceed six (6) months.

(2) If the work has commenced and the plan is not completed
as required by this Sub-Section, failure to complete
said plan shall be considered a breach of the zoning
laws and subject to the penalty called for in Section
33-25 (a), (b), (c).

(3) The Commission may, after investigation, seek to enjoin
the operation of said project if a substantial compliance
with said plan has not been achieved in the time limit
as herein set forth.

c. Amendments to Development Plan:

(1) The holder of an RGO Improvement Location Permit may
apply to the Commission at any time for an alteration,
change, amendment, or extension of the development plan
upon which such permit is based. In any such case the
holder shall submit to the Plan Commission all information
required for a development plan.

1 (2) If an application shows that additional land is to be
2 improved or used in connection with such RGO permit,
3 then the Commission shall proceed as in the case of
original application for an RGO Improvement Location
Permit.

4 (3) If no additional land is embraced in the application
5 for alteration, change, amendment or extension, then
6 the Commission shall be empowered to pass on such
7 matters without requiring a public hearing thereon.
The Commission shall be entitled to request any
additional information.

8 (4) In the event the Commission shall approve and order
9 such development plan changed, altered, amended or
10 extended, it shall so notify the Zoning Enforcement
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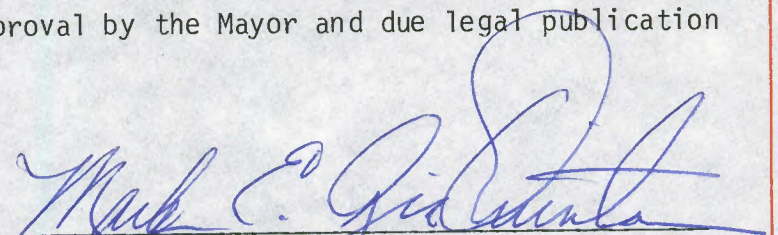
11 Section 33-58. Warning and Disclaimer of Liability

12 The degree of flood protection required by this ordinance is
13 considered reasonable for regulatory purposes and is based on
14 engineering and scientific consideration. Larger floods can and
15 will occur on rare occasions. Flood heights may be increased
16 by man-made or natural causes, such as ice or debris jams. This
17 ordinance does not imply that area outside flood hazard areas, as
defined herein, will be free from flooding or flood damages. This
ordinance does not create liability on the part of the State of
Indiana, the INRC, the Board, the Commission, or the City of Fort
Wayne, or any elected or appointed official or employee thereof
for any flood damages that result from reliance on this rule
or any administrative decision lawfully made thereunder.

18 Section 33-59. Severability

19 If any section, clause, provision, or portion of this Ordinance is
20 adjudged unconstitutional or invalid by a court of competent
21 jurisdiction, the remainder of this Ordinance shall not be
affected thereby.

22 SECTION 3. That this Ordinance shall be in full force and effect
23 from and after its passage, approval by the Mayor and due legal publication
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COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY

BRUCE O. BOXBERGER, CITY ATTORNEY

Read the first time in full and on motion by Stier,
seconded by Stier, and duly adopted, read the second time
by title and referred to the Committee Finance (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, the _____ day of
_____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 9-27-83

Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Stier,
seconded by Talarico, and duly adopted, placed on its
passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>6</u>	<u>.</u>	<u> </u>	<u>3</u>	<u> </u>
<u>BRADBURY</u>	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>	<u> </u>
<u>BURNS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>EISBART</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>GiaQUINTA</u>	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>	<u> </u>
<u>SCHMIDT</u>	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>	<u> </u>
<u>SCHOMBURG</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCRUGGS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>STIER</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>TALARICO</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

DATE: 11/22/83

Sandra E. Kennedy
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) (GENERAL) (~~ANNEXATION~~) (SPECIAL)
(APPROPRIATION) ORDINANCE (RESOLUTION) NO. 9-28-83
on the 22nd day of November, 19 83.

ATTEST:

(SEAL)

Sandra E. Kennedy
CITY CLERK

Ray A. Ebert
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 23rd day of November, 19 83, at the hour of
11:30 o'clock A. M., E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 28th day of Nov.
19 83, at the hour of 9 o'clock A. M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

*Norm
100-17*

BILL NO. G-83-09-47

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN
ORDINANCE amending Chapter 33 of the Municipal Code of the City
of Fort Wayne, Indiana

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

JAMES S. STIER, CHAIRMAN

** James S. Stier*

JANET G. BRADBURY, VICE CHAIRMAN

Janet G. Bradbury

VICTURE L. SCRUGGS

Victoria Scruggs

MARK E. GIAQUINTA

Mark E. Giaquinta

ROY J. SCHOMBURG

Roy J. Schomburg

11 22-83

Sandra E. Kennedy

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on September 27, 1983, referred a proposed zoning ordinance amendment to the City Plan Commission which proposed ordinance was designated as Bill No. G-83-09-47; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

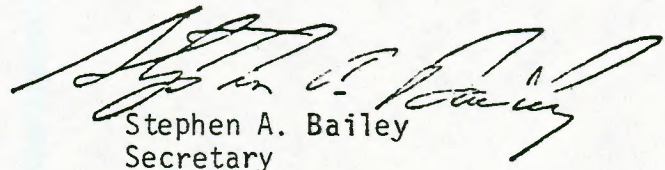
WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on October 17, 1983;

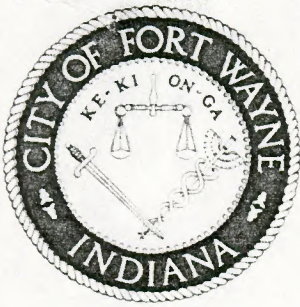
NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the City, and the amendment will not be detrimental to and does not conflict with the overall City Plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held October 24, 1983.

Certified and signed this
31st day of October 1983.


Stephen A. Bailey
Secretary



The City of Fort Wayne

DIVISION OF LAND USE MANAGEMENT
Department of Community Development & Planning

31 October 1983

Members of the Common Council
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is a resolution pertaining to an ordinance amendment acted upon by the City Plan Commission at their regular meeting held October 24, 1983. In addition to the reasons outlined in the resolution, the following are additional remarks pertaining to the ordinance:

1. Bill No. G-83-09-47
2. River Greenway Ordinance
3. Plan Commission Recommendation: DO PASS

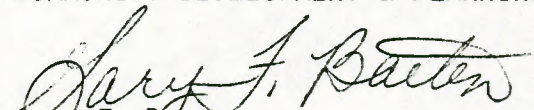
This ordinance received a DO PASS recommendation for the following reason:

REASON: The River Greenway Ordinance will aid in the effort to improve the quality of all development that has impact upon our waterway system.

If there are any questions with regard to this ordinance please feel free to call on us.

Respectfully submitted,

COMMUNITY DEVELOPMENT & PLANNING


Gary F. Baeten
Senior Planner

GFB:pb

Attachments

ORIGINAL

DIGEST SHEET ORIGINAL

TITLE OF ORDINANCE River Greenway Overlay District (RGO)

9-83-09-47

DEPARTMENT REQUESTING ORDINANCE Community Development & Planning

SYNOPSIS OF ORDINANCE The River Greenway Overlay District is of special and substantial public interest because it is a visual and environmental resource affecting substantial portions of the City of Fort Wayne including many neighborhoods, the Central Business District, numerous parks, and several areas designated through the Park Master Plan for redevelopment. It is the general purpose and intent of these regulations to provide for maximum public benefit from any future development of the River Greenway Districts through a sharing of the district land by different types of uses which are developed with a river orientation and with emphasis on the opportunity for enjoyment of river vistas and access by the maximum number of citizens. It is further the intent of this ordinance to provide for public access to the waterfront, to eliminate or minimize adverse environmental impact, to improve scenic and aesthetic controls, to improve transportation coordination and capability, and better coordinate residential, recreation, commercial, and industrial land uses.

EFFECT OF PASSAGE This ordinance will allow for the review of all development along the rivers assuming compatibility with River Greenway Plan.

EFFECT OF NON-PASSAGE Without this ordinance we feel that it will be more difficult to protect these areas along the rivers that are being improved.

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

ASSIGNED TO COMMITTEE (J.N.)